

Date: May 18, 2011 (revised 10/18/11)

Project Requestor: Commissioner Stetler

Requested Project: Amend ordinance to permit all residential uses in all zoning districts.

Perceived Problem: Number of nonconforming residential properties in the City which are unable to receive financing due to City ordinance prohibiting reconstruction if more than 50% of insured value is destroyed. The City should promote mixed uses on properties.

Existing Remedy: In regards to non-conforming properties: property owner may apply to Zoning Board of Appeals for a use variance that would allow for the continued use of that property as residential, in conformance with zoning ordinance. A property owner may also apply for non-FHA financing.

In regards to allowing mixed uses on properties, a property owner currently can apply for a contract rezoning of a property that would be specific to their intended use. Additionally, a property owner can apply for PUD to allow mixed uses.

Potential Remedies: Amend zoning ordinance to permit residential uses by right in all zoning districts, as requested by Commissioner Stetler.

Rezoning legal nonconforming properties to a residential zoning district so they would become conforming.

Amend nonconforming chapter to lessen regulations concerning reconstruction of nonconforming structures.

Staff Recommendation:

It is our understanding that non-FHA financing is an option, and there exists a current option for property owner by way of a use variance application to the ZBA to have their property brought into conformance with the zoning ordinance. It is staff's opinion that it has not been demonstrated that there exists a significant issue in the City.

The suggested remedy of allowing residential in office, commercial, and industrial zones did not appear to be provided for in any of the other communities researched by staff. Furthermore, the City of Battle Creek Zoning Ordinance since its adoption in 1926 has been developed in a typical Euclidean zoning ordinance, that which separates districts primarily by land use. Because of this predication upon a separation of various land uses, a blanket allowance of residential uses throughout the City could serve to dilute the overall purpose and intent of the ordinance, opening up the potential for litigation.

At this time without a current land use survey, it is not known how many properties are actually impacted. Without knowing the magnitude of the perceived problem, it is not clear whether there needs to be a solution other than those currently in existence. However, once conducted, if the land survey shows there are a significant number of properties, then perhaps further review of additional options might be warranted. Nevertheless, staff continues to believe the current laws provide sufficient resolution to any impacted property, but will research into typical methods of implementing the legal nonconforming standards.

**ADVANTAGES TO OPENING RESIDENTIAL LAND USE
TO THE CITY OF BATTLE CREEK'S PYRAMIDAL STRUCTURE
SEPTEMBER 2, 2010**

1. This would assist with infill by using up some of our vacant spaces as single family or multifamily residential sites
2. We would have a tendency to have less urban sprawl.
3. This would give Battle Creek more intensive use of our city water and sewer system as well as a more intensive use of side roads by not having the citizens spread out so far.
4. This would give our citizens a greater selection of homes to buy and not force them to move out of town thereby decreasing our population.
5. This would improve the sale ability of homes that are non-conforming to the current zoning.
6. This would enhance the value of those homes that are currently within non-conforming zoning (I am looking in the neighborhood of 10 to 15%). Wow!
7. This would allow people to rebuild that have had damage done to their home either by fire or other natural causes.
8. It would cause people to drive less if they could live closer to their work.
9. This would improve the city's image by allowing the administration to say yes more often.

WHERE DO WE HAVE MIXED LAND USE WITHIN A NEIGHBORHOOD NOW?

- 1. Downtown (Commercial, Office and Residential)**
- 2. New Town (Residential and Industrial)**
- 3. Helmer Road between Columbia Ave and I-94. (Single Family, Multi-family).**
- 4. Huntington Hills (Single Family and Multifamily).**
- 5. Lakeview business center (Single family and Commercial)**
- 6. Many other areas.**

Submitted by John Stetler



Advantages to openings residential land use in our pyramidal zoning structure.

John Stetler

to:

chilton, GFPerian

09/02/2010 11:07 AM

Cc:

bcaar

Hide Details

From: "John Stetler" <jstetler@ctsmail.net>

To: <chilton@battlecreekmi.gov>, <GFPerian@ci.battle-creek.mi.us>

Cc: <bcaar@bcaar.com>

History: This message has been replied to.

1 Attachment



8.30.10 ADVANTAGES TO OPENING RESIDENTIAL ZONING.docx

9.2.10

Battle Creek City Planning Commission and the Battle Creek Area Association of REALTORS

Attached are my thoughts regarding the advantages to opening residential land use in office, commercial, and industrial zonings but not allow other land uses in residentially zoned land. If the city would please forward this on to the other members of the planning commission in their agenda packets given out just before the meeting when it comes up for discussion I would appreciate it.

I would also like to have the Association of REALTORS to forward this on to the Governmental Affairs Committee with the hopes that they might want to send a letter to the Planning Commission encouraging them to give it serious consideration.

I would be willing to appear before the Governmental Affairs Committee and answer questions about this but I will be out of town for your next meeting. The Association may want to do some further investigation before they take a position and I am sure that they have lots of time to get their letter to the Planning Commission. Something like this does not happen over night.

John Stetler